

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1617

Introduced by Assembly Member Liu

February 22, 2005

An act to amend Sections 54235 ~~and 54327 of~~, 54326, 54327, and 54238.5 of, and to add Sections 54237.1 and 54327.2 to, the Government Code, relating to surplus residential property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1617, as amended, Liu. Surplus residential property.

Existing law establishes priorities and procedures that any state agency disposing of surplus residential property is required to follow. Single-family residences are required to be offered for sale to present occupants meeting specified conditions and then to housing-related private and public entities under specified conditions.

This bill would establish additional criteria under which the surplus property may be offered for sale to the current occupants, local governments, or nonprofit entities, ~~and~~. *The bill* would restrict the Department of Transportation in attaching terms or conditions to surplus property in its jurisdiction *and require the department to compile a list of surplus properties on the 710 Freeway Right-of-Way and then offer the properties for sale, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54235 of the Government Code is
2 amended to read:

1 54235. The Legislature reaffirms its finding that the
2 disposition of surplus property owned by public agencies should
3 be utilized to further state policies.

4 The Legislature reaffirms its finding that there exists within the
5 urban and rural areas of the state a serious shortage of decent,
6 safe, and sanitary housing which persons and families of low or
7 moderate income can afford, and consequently a pressing and
8 urgent need for the preservation and expansion of the low- and
9 moderate-income housing supply. The Legislature further
10 reaffirms its finding that highway and other state activities have
11 contributed to the severe shortage of such housing, *as well as to*
12 *the disruption of neighborhoods and communities*. The
13 Legislature reaffirms that the provision of decent housing for all
14 Californians is a state goal of the highest priority. The
15 Legislature finds and declares that actions of state agencies
16 including the sales of surplus residential properties which result
17 in the loss of decent and affordable housing for persons and
18 families of low or moderate income is contrary to state housing,
19 urban development, and environmental policies and is a
20 significant environmental effect, within the meaning of Article
21 XIX of the California Constitution, which will be mitigated by
22 the sale of surplus residential property pursuant to the provisions
23 of this article.

24 The Legislature further finds and declares that the
25 displacement of large numbers of persons *and the disruption of*
26 *neighborhoods and communities* as a result of the sale of surplus
27 residential property owned by agencies of the state is a
28 significant environmental effect, within the meaning of Article
29 XIX of the California Constitution which will be mitigated by
30 sale of those properties pursuant to the provisions of this article.

31 The Legislature further finds and declares that the sale of
32 surplus residential property pursuant to the provisions of this
33 article will directly serve an important public purpose.
34 Wherefore, the Legislature intends by this article to preserve,
35 upgrade and expand the supply of housing available to persons
36 and families of low or moderate income. The Legislature further
37 intends by this article to honor the rights of tenants who inhabit
38 rental properties owned by the state. The Legislature further
39 intends by this article to mitigate the environmental effects,

1 within the meaning of Article XIX, of the California
2 Constitution, caused by highway activities.

3 *SEC. 2. Section 54236 of the Government Code is amended to*
4 *read:*

5 54236. (a) As used in this article, the term “offer” means to
6 solicit proposals prior to sale in a manner calculated to achieve a
7 sale under the conditions specified, and to hold such offer open
8 for a reasonable period of time, which shall be no more than one
9 year, unless such time is extended by the selling agency at its
10 discretion, for a period to be specified by the selling agency.

11 (b) As used in this article, the term “affordable price” means,
12 in the case of a purchaser, other than a lower income household,
13 the price for residential property for which the purchaser’s
14 monthly payments will not exceed that portion of the purchasing
15 household’s adjusted income as determined in accordance with
16 the regulations of the United States Department of Housing and
17 Urban Development, issued pursuant to Section 235 of the
18 National Housing Act; and, in the case of a purchaser that is a
19 lower income household, the price for residential property for
20 which the purchaser’s monthly payments will not exceed that
21 portion of the purchasing household’s adjusted income as
22 determined in accordance with the regulations of the United
23 States Department of Housing and Urban Development issued
24 pursuant to Section 8 of the United States Housing Act of 1937.

25 (c) As used in this article, the term “single-family residence”
26 means a real property improvement used, or intended to be used,
27 as a dwelling unit for one family.

28 (d) As used in this article, the term “surplus residential
29 property” means land and structures owned by any agency of the
30 state that is determined to be no longer necessary for such
31 agency’s use, and which is developed as single-family or
32 multi-family housing, except property being held by the agency
33 for the purpose of exchange.

34 Surplus residential properties shall only include land and
35 structures which, at the time of purchase by the state, the state
36 had intended to remove the residences thereon and to use the land
37 for state purposes.

38 (e) As used in this article the term “displacement” includes,
39 but is not limited to, persons who will have to move from surplus
40 residential property that they occupy when it is sold by a state

1 agency because they are unable to afford to pay the price which
2 the state agency is asking for the residential property.

3 (f) As used in this article, the term “fair market value” shall
4 mean fair market value as of the date the offer of sale is made by
5 the selling agency pursuant to the provisions of this article. This
6 definition shall not apply to terms of sale that are described as
7 mitigation measures in an environmental study prepared pursuant
8 to the Public Resources Code if such study was initiated prior to
9 the enactment of this measure.

10 (g) As used in this article, the term “affordable rent” means, in
11 the case of an occupant person or family, other than a person or
12 family of low or moderate income, rent for residential property
13 which is not more than 25 percent of the occupant household’s
14 gross monthly income, and in the case of an occupant person or
15 family of low or moderate income, rent for residential property
16 which is not more than the percentage of the adjusted income of
17 the occupant person or family as permitted under regulations of
18 the United States Department of Housing and Urban
19 Development issued pursuant to Section 8 of the United States
20 Housing Act of 1937, but not in excess of the market rental value
21 for comparable property.

22 (h) As used in this article, the term “area median income”
23 means median household income, adjusted for family size as
24 determined in accordance with the regulations of the United
25 States Department of Housing and Urban Development issued
26 pursuant to Section 235 of the National Housing Act, as amended
27 (P.L. 90-448), for the Standard Metropolitan Statistical Area
28 (S.M.S.A.), in which surplus residential property to be disposed
29 of pursuant to this article is located, or the county in which such
30 property is located, if it is outside an S.M.S.A.

31 (i) As used in this article, the term “persons and families of
32 low or moderate income” means persons and families of low or
33 moderate income as defined by Section 50093 of the Health and
34 Safety Code.

35 (j) As used in this article, the term “lower income households”
36 means lower income households as defined in Section 50079.5 of
37 the Health and Safety Code.

38 (k) *As used in this article, the term “local government” means*
39 *the incorporated city within whose jurisdiction the property is*
40 *located or the housing authority of that city.*

1 ~~SEC. 2. Section 54237 of the Government Code is amended~~
2 ~~to read:~~

3 ~~54237. (a) Notwithstanding Section 11011.1, any agency of~~
4 ~~the state disposing of surplus residential property shall do so in~~
5 ~~accordance with the following priorities and procedures:~~

6 ~~(1) First, all single family residences presently occupied by~~
7 ~~their former owners shall be offered to those former owners at~~
8 ~~the appraised fair market value.~~

9 ~~(2) Second, all single-family residences shall be offered,~~
10 ~~pursuant to this article, to their present occupants who have~~
11 ~~occupied the property two years or more and who are persons~~
12 ~~and families of low or moderate income.~~

13 ~~(3) Third, all single-family residences shall be offered,~~
14 ~~pursuant to this article, to their present occupants who have~~
15 ~~occupied the property five years or more and whose household~~
16 ~~income does not exceed 150 percent of the area median income.~~

17 ~~(b) Single-family residences offered to their present occupants~~
18 ~~pursuant to paragraphs (2) and (3) of subdivision (a) shall be~~
19 ~~offered to the present occupants at an affordable price, which~~
20 ~~price shall not be less than the price paid by the agency for~~
21 ~~original acquisition, unless the acquisition price was greater than~~
22 ~~the current fair market value, and shall not be greater than fair~~
23 ~~market value. When these single-family residences are offered to~~
24 ~~present occupants at a price which is less than fair market value,~~
25 ~~the selling agency shall impose those terms, conditions, and~~
26 ~~restrictions necessary to assure that the housing will remain~~
27 ~~available to persons and families of low or moderate income and~~
28 ~~households with incomes no greater than the incomes of the~~
29 ~~present occupants in proportion to the area median income. The~~
30 ~~Department of Housing and Community Development shall~~
31 ~~provide to the selling agency recommendations of standards and~~
32 ~~criteria for prices, terms, conditions, and restrictions. The selling~~
33 ~~agency shall provide repairs required by lenders and government~~
34 ~~housing assistance programs, or, at the option of the agency,~~
35 ~~provide the present occupants with a replacement dwelling~~
36 ~~pursuant to Section 54237.5.~~

37 ~~(c) If single-family residences are offered to their present~~
38 ~~occupants pursuant to paragraphs (2) and (3) of subdivision (a)~~
39 ~~the occupants shall certify their income to the selling agency.~~
40 ~~When these single-family residences are offered to present~~

1 occupants at a price which is less than fair market value, the
2 selling agency may verify the certifications, in accordance with
3 procedures utilized for verification of incomes of purchasers and
4 occupants of housing financed by the California Housing Finance
5 Agency. The income limitations and term of residency
6 requirements of paragraphs (2) and (3) of subdivision (a) shall
7 not apply to sales that are described as mitigation measures in an
8 environmental study prepared pursuant to the Public Resources
9 Code, if the study was initiated prior to the enactment of this
10 measure. If a present occupant who would otherwise be eligible
11 to purchase the property based on length of occupancy, but does
12 not meet the income eligibility criteria, he or she shall then be
13 afforded the opportunity to buy the property in as-is condition, at
14 fair market value, prior to the property being offered for sale to
15 any other person or entity. If a present occupant does not buy the
16 property, or a surplus property is vacant, it shall then be offered
17 for sale to the local government within whose jurisdiction the
18 property is located for the purpose of providing affordable
19 housing. The Department of Transportation shall not attach any
20 terms or conditions to property in its jurisdiction other than a
21 statement of understanding that the property shall be used to
22 provide, or provide funds for, affordable housing within the
23 jurisdiction to which it was sold and in the approximate location
24 of the property. Properties not purchased by local governments
25 may then be offered for sale to nonprofit entities for the purpose
26 of providing affordable housing. If no reasonable offers are
27 received from those agencies for those purposes, the surplus
28 properties may be offered for sale as is, at fair market value. A
29 local government or nonprofit entity that purchases state surplus
30 property under this section for the purpose of providing
31 affordable housing may sell one or more of the properties at fair
32 market value; however, in that event, all proceeds less sales costs
33 shall be used to develop affordable housing.

34 (d) All other surplus residential properties, and all properties
35 described in paragraphs (1), (2), and (3) of subdivision (a) that
36 are not purchased by the former owners or the present occupants
37 shall be then offered to housing-related private and public entities
38 at a reasonable price, that is best suited to economically feasible
39 use of the property as decent, safe, and sanitary housing at
40 affordable rents and affordable prices for persons and families of

1 ~~low or moderate income, on the condition that the purchasing~~
2 ~~entity shall cause the property to be rehabilitated and developed~~
3 ~~as limited equity cooperative housing with first right of~~
4 ~~occupancy to present occupants, except that where the~~
5 ~~development of a cooperative or cooperatives is not feasible, the~~
6 ~~purchasing agency shall cause the property to be used for low~~
7 ~~and moderate income rental or owner-occupied housing, with~~
8 ~~first right of occupancy to the present tenants. The price of the~~
9 ~~property in no case shall be less than the price paid by the agency~~
10 ~~for original acquisition unless the acquisition price was greater~~
11 ~~than current fair market value, and shall not be greater than fair~~
12 ~~market value. Subject to the foregoing, it shall be set at the level~~
13 ~~necessary to provide housing at affordable rents and affordable~~
14 ~~prices for present tenants and persons and families of low or~~
15 ~~moderate income. When the residential property is offered at a~~
16 ~~price that is less than fair market value, the selling agency shall~~
17 ~~impose those terms, conditions and restrictions as will assure that~~
18 ~~the housing will remain available to persons and families of low~~
19 ~~or moderate income. The Department of Housing and~~
20 ~~Community Development shall provide to the selling agency~~
21 ~~recommendations of standards and criteria for prices, terms,~~
22 ~~conditions and restrictions.~~

23 ~~(e) Any surplus residential properties not sold pursuant to~~
24 ~~subdivisions (a) to (d), inclusive, shall then be sold at fair market~~
25 ~~value, with priority given first to purchasers who are present~~
26 ~~occupants and then to purchasers who will be owner occupants.~~

27 *SEC. 3. Section 54237 of the Government Code is amended to*
28 *read:*

29 54237. (a) Notwithstanding Section 11011.1, any agency of
30 the state disposing of surplus residential property shall do so in
31 accordance with the following priorities and procedures:

32 (1) First, all single family residences presently occupied by
33 their former owners shall be offered to ~~such~~ *those* former owners
34 at the appraised fair market value.

35 (2) Second, all single-family residences shall be offered,
36 pursuant to this article, to their present occupants who have
37 occupied the property two years or more and who are persons
38 and families of low or moderate income.

39 (3) Third, all single-family residences shall be offered,
40 pursuant to this article, to their present occupants who have

1 occupied the property five years or more and whose household
2 income does not exceed 150 percent of the area median income.

3 *(4) For the purposes of paragraphs (2) and (3), when an*
4 *occupant's income varies substantially from year to year, the*
5 *occupant's average income over a three-year period may be*
6 *used.*

7 (b) Single-family residences offered to their present occupants
8 pursuant to paragraphs (2) and (3) of subdivision (a) shall be
9 offered to ~~such~~ the present occupants at an affordable price,
10 which price shall not be less than the price paid by the agency for
11 original acquisition, unless the acquisition price was greater than
12 the current fair market value, and shall not be greater than fair
13 market value. When ~~such~~ these single-family residences are
14 offered to present occupants at a price which is less than fair
15 market value, the selling agency shall impose ~~such~~ those terms,
16 conditions and restrictions *necessary* to assure that ~~such~~ the
17 housing will remain available to persons and families of low or
18 moderate income and households with incomes no greater than
19 the incomes of the present occupants in proportion to the area
20 median income. The Department of Housing and Community
21 Development shall provide to the selling agency
22 recommendations of standards and criteria for ~~such~~ prices, terms,
23 conditions and restrictions. The selling agency shall provide
24 repairs required by lenders and government housing assistance
25 programs, or, at the option of the agency, *deduct the costs of*
26 *those repairs from the purchase price, or provide the present*
27 *occupants with a replacement dwelling pursuant to Section*
28 *54237.5.*

29 (c) If single-family residences are offered to their present
30 occupants pursuant to paragraphs (2) and (3) of subdivision (a)
31 the occupants shall certify their income to the selling agency.
32 When ~~such~~ these single-family residences are offered to present
33 occupants at a price which is less than fair market value, the
34 selling agency may verify ~~such~~ the certifications, in accordance
35 with procedures utilized for verification of incomes of purchasers
36 and occupants of housing financed by the California Housing
37 Finance Agency. *The certification shall remain in effect until the*
38 *sales transaction is completed.* The income limitations and term
39 of residency requirements of paragraphs (2) and (3) of
40 subdivision (a) shall not apply to sales that are described as

mitigation measures in an environmental study prepared pursuant to the Public Resources Code, if ~~such~~ *the* study was initiated prior to the enactment of this measure. *If a present occupant who would otherwise be eligible to purchase the property based on length of occupancy, but does not meet the income eligibility criteria, he or she shall then be afforded the opportunity to buy the property in “as is” condition, at fair market value, prior to the property being offered for sale to any other person or entity. If a present occupant does not buy the property, or a surplus property is vacant, it shall then be offered for sale to the local government within whose jurisdiction the property is located for the purpose of providing affordable housing. The purchase price to be paid by the local government shall be a sum equal to the affordable cost for a moderate-income household, as those terms are define in Sections 50052.5 and 50093 of the Health and Safety Code, less a reasonable estimate of the cost of rehabilitating the property into safe and sanitary condition. The Department of Transportation shall not attach any terms or conditions to property in its jurisdiction other than a statement of understanding that the property shall be used to provide, or provide funds for, affordable housing within the jurisdiction to which it was sold and in the approximate location, not to exceed a two mile radius, of the property. Properties not purchased by local governments may then be offered for sale to nonprofit entities for the purpose of providing affordable housing. If no reasonable offers are received from those agencies for those purposes, the surplus properties may be offered for sale “as is”, at fair market value. A local government or nonprofit entity that purchases state surplus property under this section for the purpose of providing affordable housing may sell one or more of the properties at fair market value, however, in that event, all proceeds less sales costs shall be used to develop affordable housing.*

(d) All other surplus residential properties shall be offered for sale to the local government within whose jurisdiction the property is located, at a reasonable price that is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low and moderate income. All other surplus properties that are not purchased by the local

1 *government within whose jurisdiction the property is located, and*
2 *all properties described in paragraphs (1), (2), and (3) of*
3 *subdivision (a)—which that are not purchased by the former*
4 *owners or the present occupants shall be then offered to*
5 *housing-related private and public entities at a reasonable price,*
6 *which that is best suited to economically feasible use of the*
7 *property as decent, safe, and sanitary housing at affordable rents*
8 *and affordable prices for persons and families of low or moderate*
9 *income, on the condition that the purchasing entity shall cause*
10 *the property to be rehabilitated and developed as limited equity*
11 *cooperative housing with first right of occupancy to present*
12 *occupants, except that where the development of—such a*
13 *cooperative or cooperatives is not feasible, the purchasing agency*
14 *shall cause the property to be used for low and moderate income*
15 *rental or owner-occupied housing, with first right of occupancy*
16 *to the present tenants. The price of the property in no case shall*
17 *be less than the price paid by the agency for original acquisition*
18 *unless the acquisition price was greater than current fair market*
19 *value, and shall not be greater than fair market value. Subject to*
20 *the foregoing, it shall be set at the level necessary to provide*
21 *housing at affordable rents and affordable prices for present*
22 *tenants and persons and families of low or moderate income.*
23 *When—such the residential property is offered at a price—which*
24 *that is less than fair market value, the selling agency shall impose*
25 *such those terms, conditions and restrictions as will assure that*
26 *such the housing will remain available to persons and families of*
27 *low or moderate income. The Department of Housing and*
28 *Community Development shall provide to the selling agency*
29 *recommendations of standards and criteria for such prices, terms,*
30 *conditions and restrictions.*

31 (e) Any surplus residential properties not sold pursuant to
32 subdivisions (a) to (d), inclusive, shall then be sold at fair market
33 value, with priority given first to purchasers who are present
34 occupants and then to purchasers who will be owner occupants.

35 SEC. 4. *Section 54237.1 is added to the Government Code, to*
36 *read:*

37 *54237.1. The Department of Transportation, by March 31,*
38 *2006, shall compile a list of all properties on the 710 Freeway*
39 *Right-of Way that are deemed surplus to the construction of the*
40 *freeway, in whole or in part, in accordance with the most recent*

1 *engineering maps for the freeway. The department shall then*
2 *offer the properties for sale, including any properties of which a*
3 *portion is surplus if, through the use of easements or withholding*
4 *a portion of the land from sale, the property can reasonably be*
5 *occupied if the freeway is built. The department shall complete*
6 *any sales transaction within one year unless the seller and buyer*
7 *mutually agree to a longer period.*

8 *SEC. 5. Section 54327.2 is added to the Government Code, to*
9 *read:*

10 *54327.2. When an agency, pursuant to subdivision (b) of*
11 *Section 54327, sells a single family residence at less than fair*
12 *market value, the agency shall impose terms, conditions, and*
13 *restrictions to ensure that the housing will remain available to*
14 *persons and families of low or moderate income and households*
15 *with incomes no greater than the income of the presents*
16 *occupants in proportion to the area median income.*

17 *(a) Any covenant that the agency enters into in executing those*
18 *terms, conditions, and restrictions shall do both of the following:*

19 *(1) In no case for the purchase of any property, exceed a term*
20 *of 15 years from the date of the execution of the conveyance in*
21 *the director's deed.*

22 *(2) Include all the time in which the testator of a bequest to the*
23 *subsequent owner in a will or the descendant from whom the*
24 *subsequent owner inherited the property through intestate*
25 *succession or the settler of a trust by which the property was*
26 *distributed to the subsequent owner resided in the residence for*
27 *purposes of this paragraph and paragraph (1) as if the*
28 *subsequent owner himself or herself resided there.*

29 *(b) A tenant's right to purchase property under Section 54237*
30 *is a property right that may be passed to his or her heirs through*
31 *devise, or in the absence of a devise, through intestate*
32 *succession.*

33 *(c) With the exception of historic covenants, there shall be no*
34 *terms or conditions in the sale that limit or restrict the*
35 *purchaser's ability to maintain and improve the property.*

36 *SEC. 6. Section 54238.5 of the Government Code is amended*
37 *to read:*

38 *54238.5. Failure to comply with the provisions of this article*
39 *shall not invalidate any contract with, or the transfer, sale, or*
40 *conveyance to a bona fide purchaser for value or an*

1 encumbrancer for value. *A signed contract for the sale of a*
2 *surplus residential property to an occupant made with the*
3 *Department of Transportation shall not be rescinded except in*
4 *either of the following circumstances:*
5 *(a) By the written consent of all parties to the contract.*
6 *(b) Upon clear and convincing evidence of willful*
7 *representation of a material fact by the purchaser and only upon*
8 *a judgment of a court.*